

RECEIVED
CENTRAL FAX CENTER

APR 16 2007

REMARKS

The current patent application has been reviewed in light of the final Office Action, dated August 11, 2006, (hereinafter "the office action"). In the office action, claims 1-10, 21, 24-28, and 30 are rejected under 35 USC § 102(e) as being anticipated by Jones et al. (hereinafter "Jones") US Pub. No. 2002/0118949. Claims 11-15, 17-18, 22, 29, and 31 are rejected under 35 USC § 103(a) as being unpatentable over Jones as applied to claims 1-10, 21, 24-28, and 30, in view of Perkes, US Pub. No. 2003/0110503. Claims 19-20, 23, and 32 are rejected under 35 USC § 103(a) as being unpatentable over Jones as applied to claims 1-10, 21, 24-28, and 30, in view of Huang, US Pub. No. 2004/0098379. Entry and consideration of the above amendments and the following remarks is respectfully requested.

New claims 33-41 have been added. Support for the new claims is found throughout the specification. No new matter is added.

Claims 3 and 24 have been cancelled. Claim 16 was previously cancelled. Claims 1, 2, 4, 7-12, 14, 15, 17-23, 25, 26, and 29-32 have been amended. Assignee has amended claims to more clearly delineate intended subject matter. The amendments to the claims are made without prejudice or disclaimer.

Claim Rejections – 35 U.S.C. § 102

Claims 1-10, 21, 24-28, and 30 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Jones.

Assignee traverses the rejections. The amended claims are at least distinguishable over the cited document. The Manual of Patent Examining Procedure ("MPEP"), in § 2131, states:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 869 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Thus, under § 35 U.S.C. 102, a claim is anticipated *only if* each and every element of the claim is found in the cited document. Also, the cited document must show the claimed subject matter in as complete detail as recited in the claim.

Claim 1 has been amended to clarify that the method comprises "selecting an operational mode of the digital apparatus" and "establishing a folder responsive to selecting the operational mode, the folder having a file type determined according to the selected operational mode." Support for the amendment is found, among other places, in the specification, in paragraph [0029] and Fig. 7.

Jones discloses an apparatus and method for archiving of multimedia content. In Jones, a digital processor 117 takes a set of inputs from various sources to produce an output suitable for recording on a CD 121. See Jones, paragraph [0024]. As the Examiner recited in the office action, Jones discloses "an output from the digital processor 117 is created in folders, including a "PICTURES" folder, a "VIDEOS" folder, an "AUDIO" folder, and, optionally, an "OTHERS" folder. See Jones, paragraph [0027]. However, Jones does not teach or disclose establishing a folder responsive to selecting the operational mode. Thus, Jones does not teach every element contained and arranged as recited in amended claim 1, and the rejection is improper.

Claim 7 has been amended to clarify that the method comprises "establishing a folder corresponding to a file type of the captured file when data is captured...". As discussed above, Jones discloses creating the output from the digital processor in the folders. However, Jones does not teach or disclose establishing a folder when data is captured. Thus, Jones does not teach every element contained and arranged as recited in amended claim 7, and the rejection is improper.

Claim 25 has been amended to contain similar limitations as in amended claim 1. Thus, Jones does not teach every element contained and arranged as recited in amended claim 25, and the rejection is improper.

The remaining claims depend from claims 1 or 7 or 25, and these claims patentably distinguish from the applied patent on at least the same or similar basis. Therefore, it is respectfully requested that the Examiner withdraw the rejection of claims 1-10, 21, 24-28, and 30.

Claim Rejections – 35 U.S.C. § 103

Claims 11-15, 17-18, 22, 29, and 31 are rejected under 35 USC § 103(a) as being unpatentable over Jones as applied to claims 1-10, 21, 24-28, and 30, in view of Perkes.

Assignee traverses the rejections. Assignee submits that the Examiner failed to properly establish a *prima facie* case of obviousness because the cited documents do not teach or suggest all of the claim limitations. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations.

Assignee submits that the Examiner failed to properly establish a *prima facie* case of obviousness because Jones does not teach or suggest all of the claim limitations. As discussed above, Jones does not teach every element contained and arranged as recited in claims 1 and 25. As claims 11-15, 17-18, 22, 29, and 31, depend directly or indirectly from claims 1 or 25, they are also allowable at least for the foregoing reasons. Accordingly, the rejection under § 103(a) is improper and should be withdrawn.

Claim Rejections – 35 U.S.C. § 103

Claims 19-20, 23, and 32 are rejected under 35 USC § 103(a) as being unpatentable over Jones as applied to claims 1-10, 21, 24-28, and 30, in view of Huang.

Assignee traverses the rejection. Assignee submits that the Examiner failed to properly establish a *prima facie* case of obviousness because Jones does not teach or suggest all of the claim limitations. As discussed above, Jones does not teach every element contained and arranged as recited in claims 1 and 25. As claims 19-20, 23, and 32, depend directly or indirectly from claims 1 or 25, they are also allowable at least for the foregoing reasons. Accordingly, the rejection under § 103(a) is improper and should be withdrawn.

RECEIVED
CENTRAL FAX CENTER

APR 16 2007

It is noted that claimed subject matter may be patentably distinguished from the cited documents for additional reasons; however, the foregoing is believed to be sufficient. Likewise, it is noted that the Assignee's failure to comment directly upon any of the positions asserted by the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

CONCLUSION

In view of the foregoing, it is respectfully asserted that all of the claims pending in the present patent application are in condition for allowance. If the Examiner has any questions, she is invited to contact the undersigned at (503) 439-6500. Entry of this amendment and reconsideration of the present patent application in view of the same, and early allowance of all the claims is respectfully requested. Please charge any underpayments or credit any overpayments to deposit account no. 50-3703.

Respectfully submitted,

Dated: 16 Apr 2007

Celia C. Dunham
Celia C. Dunham
Reg. No. 49,041

Berkeley Law and Technology Group, LLP
1700 NW 167th Place, Suite 240
Beaverton, OR 97006
Telephone: 503-439-6500

Customer No. 43831